THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.14088 of 2006

13.06.2006

Between

Manyala Ramulu
And others

… Petitioners

AND

The Assistant Commissioner, Endowments Department, Visakhanatnam
And another

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.14088 of 2006

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ORDER:

The petitioners who are twenty in number are tenants of agricultural dry land belonging to Sri Langurkhanna Choultry of Bheemunipatnam Mandal in Visakhapatnam District. Each of the petitioners is in occupation of agricultural land ranging from Acs.0.31 to Acs.1.96 comprised in survey No.82/1 situated at Nerellavalasa Village. After Section 82 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereafter called, the Act) as amended by A.P. Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2002, came into force, the petitioners individually filed applications under Section 82(2) of the Act and Rule 3 of A.P. Charitable and Hindu Religious Institutions and Endowments (Lease of Agricultural Lands) Rules, 2003 (hereafter called, the Rules). Be it noted that as per Section 82(1) of the Act, all the leases of agricultural lands by religious, charitable institutions and endowments stand cancelled, and only such of those farmers, who are landless poor persons are given the benefit of either continuing as lessees or exercise option for purchase of the property of the charitable institution.

The Assistant Commissioner of Endowments; first respondent herein – who is competent authority, to declare a lessee of a charitable institution as landless poor persons, passed separate orders on 06.1.2004 declaring each of the petitioners as a landless poor person as defined under the explanation to subsection (2) of Section 18 of the Act. The Assistant Commissioner also observed that as each of the petitioners gave undertaking that he is opting to continue as a tenant, the Executive Officer of the second respondent should take necessary action to continue the petitioners as lessees for a period of three years as per the Rules. Though the orders were passed on 06.1.2004, the petitioners filed the present writ petition after lapse of about two years six months, assailing the orders of the first respondent insofar as the order regards the petitioners gave options to continue as tenants.

Learned Counsel for the petitioners strenuously contends that

the petitioners never gave option or undertaking to continue as tenants, that they are willing to purchase the land of the second respondent as lessees under the provisions of subsection (2) of Section 82 of the Act and that the orders passed by the first respondent in January 2004 are erroneous. Secondly, he would submit that as per the provisions of the Rules, after declaring a tenant as a landless poor person, the Executive Officer has to issue notice in Form-II requiring the lessee to exercise option and in the absence of any such option in Form-II, the first respondent cannot surmise the option of the petitioners to continue as tenants. **Per contra**, learned Assistant Government Pleader for Endowments submits that the writ petition is barred by delay and laches and that the petitioners, having enjoyed the lease pursuant to the proceedings of the Assistant Commissioner, are now turning around to get unlawful advantage and that the order of the first respondent does not warrant interference.

As noticed hereinabove, the writ petition is filed with considerable delay. Learned Counsel for the petitioners, however, has not properly explained the delay and laches on the part of the petitioners in approaching this Court after lapse of two years six months. Secondly, the Assistant Commissioner passed orders on 06.1.2004 directing the Executive Officer to take further action to continue the petitioners as lessees for a period of three years as per the Rules. Thereafter, it appears that on 20.4.2004, the Manager of the second respondent Institution sent a communication seeking confirmation of the lease in favour of the petitioner for a period of three years. Considering the same, the first respondent issued proceedings in Rc.No.A1/980/2003, dated 27.5.2004 approving the leasehold rights of the petitioner. The copies of the impugned orders as well as the proceedings of the Assistant Commissioner dated 27.5.2004 were marked to the second respondent institution. The petitioners were aware of all these proceedings and they jolly well continued as lessees, presumably for the reason that it was more beneficial to them and that when their lease is likely to come to an end, they filed the present writ petition contending that they never gave option to continue as tenants. The petitioners, in the opinion of this Court, are approbating and reprobating and did not approach the Court with clean hands. In such an event, the discretion under Article 226 of the Constitution of India cannot be exercised. Be that as it is, if the second respondent decides to sell the land, the petitioners have another opportunity to exercise option to buy the land as per the provisions under Section 82(2) of the Act.

The writ petition is misconceived and is, accordingly, dismissed.

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(**V.V.S.RAO, J**)

July 13, 2006.

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